



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

SATS No. [MT-034-FOR]; Docket ID [OSM-2011-0018]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 ("SMCRA" or "the Act"). Montana proposes revisions to and additions of statutory definitions for "approximate original contour," "in situ coal gasification," and "recovery fluid."

Montana intends to revise its program to clarify ambiguities and improve operational efficiency.

This document gives the times and locations that the Montana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., m.s.t. [Insert date 30 days after date of publication in the Federal Register]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the Federal Register]. We will accept requests to speak until 4:00 p.m., m.s.t. on [Insert date 15 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments identified by "SATS No. MT-034-FOR" or "Docket ID No. OSM-2011-0018," by any of the following methods:

- E-mail: cbelka@osmre.gov. Please Include "Docket ID No. OSM-2011-0018" in the subject line of the message.
- Mail/Hand Delivery/Courier: Jeffrey Fleischman, Chief,

Casper Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 11018 Casper, WY 82601-7032

- Fax: (307) 261-6552
- Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments. All submissions received must include the agency name and Docket ID No. OSM-2011-0018. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the SUPPLEMENTARY INFORMATION section of this document.

In addition to viewing the docket and obtaining copies of documents at www.regulations.gov, you may review copies of the Montana program, this amendment, a listing of any public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

Jeffrey Fleischman, Chief, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Dick Cheney Federal Building, 150 East B Street, Room 1018, Casper, Wyoming 82601-7032, (307) 261-6550, jfleischman@osmre.gov.

Edward L. Coleman, Bureau Chief, Industrial and Energy Minerals Bureau, Department of Environmental Quality, P.O. Box 200901,

Helena, MT 59620-0901, (406) 444-2544, ecoleman@mt.gov

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief,
Casper Field Office, Office of Surface Mining Reclamation and
Enforcement, P.O. Box 11018, Dick Cheney Federal Building,
150 East B Street, Room 1018, Casper, Wyoming 82601-7032, (307)
261-6550, jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Montana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the

requirements of this Act...; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, Federal Register (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Description of the Proposed Amendment

By letter dated August 19, 2011, Montana sent us a proposed amendment to its program (Administrative Record No. MT-31-01) under SMCRA (30 U.S.C. 1201 et seq.). Montana sent the amendment in response to Senate Bill 292, which was passed by the 2011 Montana Legislature. Senate Bill 292 amended both the Montana Strip and Underground Mine Reclamation Act (MSUMRA) and the Montana Water Quality Act.

Specifically, Montana proposes to revise the Montana Code Annotated (MCA) Section 82-4-203, Definitions, by adding a

reference to the definition of hydrologic balance within the definition of (4) "Approximate original contour," and by adding definitions of (27) "In situ coal gasification," and (44) "Recovery fluid." Other changes are non-substantive recodifications. OSM does not have jurisdiction over proposed changes to Montana's Water Quality Act (Title 75, Chapter 5 of MCA). The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Montana program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of

SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available in the electronic docket for this rulemaking at www.regulations.gov. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t.

on [Insert date 15 days after date of publication in the Federal Register]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting

by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public; if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866 - Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the

determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

September 26, 2011

Allen D. Klein

Date

Director, Western Region

[FR Doc. 2011-31293 Filed 12/05/2011 at 8:45 am; Publication
Date: 12/06/2011]